

SENATE BILL No. 353

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9; IC 31-30-1-1; IC 31-37-23.5; IC 34-30-2-134.5.

Synopsis: Interstate compact for juveniles. Adopts the interstate compact for juveniles. Creates a national interstate commission for juveniles made up of the compact administrators from states that join the interstate compact. Delegates to the interstate compact the authority to adopt rules concerning the transfer of juvenile probationers and parolees between states. Permits the interstate compact to impose fines or seek injunctive relief against the state or a county if the state or the county does not comply with the compact. Establishes the state council with up to nine members. Requires a juvenile offender to pay a \$75 application fee to apply for a transfer out of state. Provides that a juvenile probationer's application fee is paid to a county probation department. Provides that a probationer's fee is divided between the Indiana judicial center and the supervising county.

Effective: July 1, 2004.

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January 12, 2004, read first time and referred to Committee on Criminal, Civil and Public Policy.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 353

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-9-1-2 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2004]: Sec. 2. Except as otherwise provided,
3 the definitions in this article do not apply to the following:

4 (1) IC 31-11-3.

5 (2) IC 31-17-3.

6 (3) IC 31-18.

7 (4) IC 31-19-29.

8 (5) IC 31-37-23.

9 (6) **IC 31-37-23.5.**

10 SECTION 2. IC 31-9-2-10.5 IS ADDED TO THE INDIANA CODE
11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
12 1, 2004]: **Sec. 10.5. "Bylaws", for purposes of the Interstate**
13 **Compact for Juveniles under IC 31-37-23.5, has the meaning set**
14 **forth in IC 31-37-23.5-2.**

15 SECTION 3. IC 31-9-2-22.3 IS ADDED TO THE INDIANA CODE
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2004]: **Sec. 22.3. "Compact administrator", for purposes of the**

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1 **Interstate Compact for Juveniles under IC 31-37-23.5, has the**
 2 **meaning set forth in IC 31-37-23.5-2.**

3 SECTION 4. IC 31-9-2-22.5 IS ADDED TO THE INDIANA CODE
 4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 5 1, 2004]: **Sec. 22.5. "Compacting state", for purposes of the**
 6 **Interstate Compact for Juveniles under IC 31-37-23.5, has the**
 7 **meaning set forth in IC 31-37-23.5-2.**

8 SECTION 5. IC 31-9-2-22.7 IS ADDED TO THE INDIANA CODE
 9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 10 1, 2004]: **Sec. 22.7. "Commissioner", for purposes of the Interstate**
 11 **Compact for Juveniles under IC 31-37-23.5, has the meaning set**
 12 **forth in IC 31-37-23.5-2.**

13 SECTION 6. IC 31-9-2-27 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 27. (a) "Court", for
 15 purposes of IC 31-15, IC 31-16, and IC 31-17, means the circuit,
 16 superior, or other courts of Indiana upon which jurisdiction to enter
 17 dissolution decrees has been or may be conferred.

18 (b) "Court", for purposes of IC 31-16-15, refers to the court having
 19 jurisdiction over child support orders.

20 (c) "Court", for purposes of IC 31-37-23, has the meaning set forth
 21 in IC 31-37-23-3.

22 (d) "Court", for purposes of the Interstate Compact on Juveniles
 23 under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

24 (e) "Court", for purposes of the Interstate Compact for
 25 Juveniles under IC 31-37-23.5, has the meaning set forth in
 26 IC 31-37-23.5-2.

27 SECTION 7. IC 31-9-2-39.5 IS ADDED TO THE INDIANA CODE
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 29 1, 2004]: **Sec. 39.5. "Deputy compact administrator", for purposes**
 30 **of the Interstate Compact for Juveniles under IC 31-37-23.5, has**
 31 **the meaning set forth in IC 31-37-23.5-2.**

32 SECTION 8. IC 31-9-2-65.5 IS ADDED TO THE INDIANA CODE
 33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 34 1, 2004]: **Sec. 65.5. "Interstate commission", for purposes of the**
 35 **Interstate Compact for Juveniles under IC 31-37-23.5, has the**
 36 **meaning set forth in IC 31-37-23.5-2.**

37 SECTION 9. IC 31-9-2-69 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 69. (a) "Juvenile", for
 39 purposes of the Interstate Compact on Juveniles under IC 31-37-23-1,
 40 has the meaning set forth in IC 31-37-23-1.

41 (b) "Juvenile", for the purposes of the Interstate Compact for
 42 Juveniles under IC 31-37-23.5, has the meaning set forth in

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1 **IC 31-37-23.5-2.**

2 SECTION 10. IC 31-9-2-82.5 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2004]: **Sec. 82.5. "Noncompacting", for**
5 **purposes of the Interstate Compact for Juveniles under**
6 **IC 31-37-23.5, has the meaning set forth in IC 31-37-23.5-2.**

7 SECTION 11. IC 31-9-2-97 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 97. (a) "Probation or
9 parole", for purposes of the Interstate Compact on Juveniles under
10 IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

11 (b) **"Probation or parole", for purposes of the Interstate**
12 **Compact for Juveniles under IC 31-37-23.5, has the meaning set**
13 **forth in IC 31-37-23.5-2.**

14 SECTION 12. IC 31-9-2-113.5 IS ADDED TO THE INDIANA
15 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2004]: **Sec. 113.5. "Rules", for purposes of**
17 **the Interstate Compact for Juveniles under IC 31-37-23.5, has the**
18 **meaning set forth in IC 31-37-23.5-2.**

19 SECTION 13. IC 31-9-2-119 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 119. (a) "State", for
21 purposes of the Uniform Child Custody Jurisdiction Law under
22 IC 31-17-3, has the meaning set forth in IC 31-17-3-2.

23 (b) "State", for purposes of the Uniform Interstate Family Support
24 Act under IC 31-18, has the meaning set forth in IC 31-18-1-21.

25 (c) "State", for purposes of the Interstate Compact on Adoption
26 Assistance under IC 31-19-29, has the meaning set forth in
27 IC 31-19-29-2.

28 (d) "State", for purposes of the Interstate Compact on Juveniles
29 under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

30 (e) **"State", for purposes of the Interstate Compact for Juveniles**
31 **under IC 31-37-23.5, has the meaning set forth in IC 31-37-23.5-2.**

32 SECTION 14. IC 31-30-1-1, AS AMENDED BY P.L.196-2003,
33 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2004]: Sec. 1. A juvenile court has exclusive original
35 jurisdiction, except as provided in sections 9, 10, 12, and 13 of this
36 chapter, in the following:

37 (1) Proceedings in which a child, including a child of divorced
38 parents, is alleged to be a delinquent child under IC 31-37.

39 (2) Proceedings in which a child, including a child of divorced
40 parents, is alleged to be a child in need of services under
41 IC 31-34.

42 (3) Proceedings concerning the paternity of a child under

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IC 31-14.

(4) Proceedings under the interstate compact on juveniles under IC 31-37-23.

(5) Proceedings governing the participation of a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for a child under IC 31-34-16 or IC 31-37-15.

(6) Proceedings under IC 31-34-4, IC 31-34-5, IC 31-37-5, and IC 31-37-6 governing the detention of a child before a petition has been filed.

(7) Proceedings to issue a protective order under IC 31-32-13.

(8) Proceedings in which a child less than sixteen (16) years of age is alleged to have committed an act that would be a misdemeanor traffic offense if committed by an adult.

(9) Proceedings in which a child is alleged to have committed an act that would be an offense under IC 9-30-5 if committed by an adult.

(10) Guardianship of the person proceedings for a child:

(A) who has been adjudicated as a child in need of services;

(B) for whom a juvenile court has approved a permanency plan under IC 31-34-21-7 that provides for the appointment of a guardian of the person; and

(C) who is the subject of a pending child in need of services proceeding under IC 31-34.

(11) Proceedings concerning involuntary drug and alcohol treatment under IC 31-32-16.

(12) Proceedings under the Interstate Compact for Juveniles under IC 31-37-23.5.

(13) Other proceedings specified by law.

SECTION 15. IC 31-37-23.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 23.5. Interstate Compact for Juveniles

Sec. 1. The governor shall enter into a compact on behalf of the state with any other state in the form substantially as set forth in this chapter.

Sec. 2.

**ARTICLE I
DEFINITIONS**

As used in this compact, unless the context clearly requires a different construction:

(1) "Bylaws" mean those bylaws established by the interstate commission for its governance or for directing or controlling

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the interstate commission's actions or conduct.

(2) "Compact administrator" means the individual in each compacting state appointed under the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate commission, and policies adopted by the state council under this compact.

(3) "Compacting state" means any state that has enacted the enabling legislation for this compact.

(4) "Commissioner" means the voting representative of each compacting state appointed under Article II of this compact.

(5) "Court" means any court having jurisdiction over a delinquent, neglected, or dependent child.

(6) "Deputy compact administrator" means the individual, if any, in each compacting state appointed to act on behalf of a compact administrator under the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate commission, and policies adopted by the state council under this compact.

(7) "Interstate commission" means the Interstate Commission for Juveniles established by this compact.

(8) "Juvenile" means any person defined as a juvenile in any member state or by the rules of the interstate commission, including the following terms and definitions:

(A) "accused delinquent" means a person charged with an offense that if committed by an adult would be a criminal offense;

(B) "adjudicated delinquent" means a person found to have committed an offense that if committed by an adult would be a criminal offense;

(C) "accused status offender" means a person charged with an offense that would not be a criminal offense if committed by an adult; and

(D) "adjudicated status offender" means a person found to have committed an offense that would not be a criminal offense if committed by an adult.

(9) "Noncompacting state" means any state that has not enacted the enabling legislation for this compact.

(10) "Probation or parole" means any kind of supervision or

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conditional release of juveniles authorized by the laws of the compacting states.

(11) "Rules" means a written statement by the interstate commission adopted under Article V of this compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the interstate commission.

(12) "State" means a state of the United States, the District of Columbia, or any other territorial possession of the United States.

Sec. 3.

ARTICLE II

INTERSTATE COMMISSION FOR JUVENILES

(a) The Interstate Commission for Juveniles is established.

(b) The interstate commission is a body corporate and joint agency of the compacting states. The interstate commission has all the responsibilities, powers, and duties set forth in this chapter, and additional powers as conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(c) The interstate commission consists of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the state council for interstate juvenile supervision set forth in this chapter. The commissioner is the compact administrator, deputy compact administrator, or designee from that state who serves on the interstate commission pursuant to the law of the compacting state.

(d) In addition to the commissioners, who are the voting representatives of each state, the interstate commission includes individuals who are not commissioners but who are members of interested organizations. Noncommissioner members include a member of the national organizations of governors, legislators, state chief justices, attorneys general, interstate compact for adult offender supervision, interstate compact for the placement of children, juvenile justice and juvenile corrections officials, and crime victims. All noncommissioner members of the interstate commission are ex officio nonvoting members. The interstate commission may provide in its bylaws for additional, ex officio, nonvoting members, including members of other national organizations.

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(e) Each compacting state represented at any meeting of the interstate commission is entitled to one (1) vote. A majority of the compacting states constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

(f) The interstate commission shall establish an executive committee that must include interstate commission officers, members, and others as determined by the bylaws. The executive committee has authority to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking or making amendments to the compact. The executive committee oversees the day to day activities managed by the executive director and interstate commission staff, administers enforcement and compliance with the provisions of the compact, its bylaws and rules, and performs other duties as directed by the interstate commission or set forth in the bylaws.

(g) Each member of the interstate commission is entitled to cast a vote and to participate in the business and affairs of the interstate commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

(h) The interstate commission's bylaws must establish conditions and procedures. The interstate commission shall make its information and official records available to the public for inspection or copying pursuant to the bylaws. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(i) Public notice shall be given of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and its committees may close a meeting to the public if it determines by two-thirds (2/3) vote that an open meeting would likely:

- (1) relate solely to the interstate commission's internal personnel practices and procedures;
- (2) disclose matters specifically exempted from disclosure by

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statute;

(3) disclose trade secrets or commercial or financial information that is privileged or confidential;

(4) involve accusing a person of a crime, or formally censuring a person;

(5) disclose information of a personal nature if the disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) disclose investigative records compiled for law enforcement purposes;

(7) disclose information contained in or related to the examination of, operating or condition reports prepared by, on behalf of, or for the use of, the interstate commission with respect to a regulated person or entity for the purpose of regulation or supervision of the regulated person or entity;

(8) disclose information prematurely and significantly endanger the stability of a regulated person or entity; and

(9) specifically relate to the interstate commission's issuance of a subpoena or its participation in a civil action or other legal proceeding.

(j) For every meeting closed under subsection (i), the interstate commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemption clause listed in subsection (i). The interstate commission shall keep minutes that describe all matters discussed in each meeting and shall provide a summary of any actions taken. The minutes must also include a description of the views expressed on any item and the record of any roll call vote indicating how each member voted in each vote. All documents considered in connection with any action shall be identified in each set of minutes.

(k) The interstate commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rule that shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. The methods of data collection, exchange, and reporting shall conform to modern technology and coordinate the information functions with the appropriate repository of records.

Sec. 4.

ARTICLE III POWERS AND DUTIES OF THE INTERSTATE COMMISSION

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The interstate commission has the following powers and duties:

(1) To provide for dispute resolution among compacting states.

(2) To adopt rules that are binding in the compacting states to the extent and in the manner provided in this compact.

(3) To oversee, supervise, and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws and rules adopted by the interstate commission.

(4) To enforce compliance with compact provisions, interstate commission rules, and bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

(5) To establish and maintain offices.

(6) To purchase and maintain insurance and bonds.

(7) To borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs.

(8) To establish and appoint committees and hire staff it considers necessary for the carrying out of its functions, including, but not limited to, an executive committee as required by Article II of this compact that may act on behalf of the interstate commission in carrying out its powers and duties.

(9) To elect or appoint officers, attorneys, employees, agents, or consultants, to fix their compensation, define their duties, and determine their qualifications, and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.

(10) To accept donations and grants of money, equipment, supplies, materials, and services and to receive, use, and dispose of them.

(11) To lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use any real, personal, or mixed property.

(12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any real, personal, or mixed property.

(13) To establish a budget and make expenditures and levy dues as provided in Article VII of this compact.

(14) To sue and be sued.

(15) To adopt a seal and suitable bylaws governing the management and operation of the interstate commission.

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(16) To perform functions as necessary or appropriate to achieve the purposes of this compact.

(17) To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. Reports must include any recommendations that may have been adopted by the interstate commission.

(18) To coordinate education, training, and public awareness for officials involved in the interstate movement of juveniles.

(19) To establish uniform standards for the reporting, collecting, and exchanging of data.

(20) The interstate commission must maintain its corporate books and records in accordance with the bylaws.

Sec. 5.

ARTICLE IV ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Part A. Bylaws

The interstate commission shall, by a majority of the members, within twelve (12) months of the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including:

- (1) establishing the fiscal year of the interstate commission;
- (2) establishing an executive committee and other committees as necessary;
- (3) providing reasonable standards and procedures:
 - (A) for the establishment of committees; and
 - (B) governing any general or specific delegation of any authority or function of the interstate commission;
- (4) providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each meeting;
- (5) establishing the titles and responsibilities of the officers of the interstate commission;
- (6) providing a mechanism for concluding the operations of the interstate commission and the return of any surplus funds that may exist upon the termination of the compact after the payment and reserving of its debts and obligations;
- (7) providing transition rules for a start up administration of the compact; and
- (8) establishing standards and procedures for compliance and

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technical assistance in carrying out the compact.

Part B. Officers and Staff

(a) The interstate commission, by a majority of the members, shall elect from among its members a chairperson and a vice chairperson, each of whom shall have authority and duties as specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the interstate commission. The officers elected shall serve without compensation or remuneration from the interstate commission. However, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

(b) The interstate commission, through its executive committee, shall appoint or retain an executive director. The interstate commission may set terms and conditions for the appointment of the executive director and shall determine the appropriate compensation for the executive director. The executive director shall serve as secretary to the interstate commission and hire and supervise other staff as authorized by the interstate commission, but is not a member.

Part C. Qualified Immunity, Defense, and Indemnification

(a) The members, officers, executive director, and employees of the interstate commission are immune from suit and liability, either personally or in their official capacities, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error, or omission that occurs within the scope of interstate commission employment, duties, or responsibilities. However, nothing in this subsection shall be construed to protect any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any person.

(b) The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of the person's employment or duties for acts, errors, or omissions occurring within the person's state may not exceed the limits of liability set forth under the constitution and law of that state for state officials, employees, and agents. Nothing in this subsection shall be construed to protect any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any the person.

(c) The interstate commission shall defend the executive

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1 director, the executive director's employees and representatives,
 2 the commissioner of a compacting state, and the commissioner's
 3 representatives or employees in any civil action seeking to impose
 4 liability arising out of any actual or alleged act, error, or omission
 5 that occurs within the scope of interstate commission employment,
 6 duties, or responsibilities or that the defendant has a reasonable
 7 basis for believing occurred within the scope of interstate
 8 commission employment, duties, or responsibilities, as long as the
 9 actual or alleged act, error, or omission did not result from
 10 intentional wrongdoing on the part of the person.

11 (d) The interstate commission shall indemnify and hold
 12 harmless the commissioner of a compacting state, the appointed
 13 designee or employees, and the interstate commission's
 14 representatives or employees in the amount of any settlement or
 15 judgment obtained against the person arising out of any actual or
 16 alleged act, error, or omission that occurs within the scope of
 17 interstate commission employment, duties, or responsibilities, or
 18 that the person had a reasonable basis for believing occurred
 19 within the scope of interstate commission employment, duties, or
 20 responsibilities, provided that the actual or alleged act, error, or
 21 omission did not result from gross negligence or intentional
 22 wrongdoing on the part of the person.

23 Sec. 6.

24 ARTICLE V
 25 RULEMAKING FUNCTIONS OF THE INTERSTATE
 26 COMMISSION

27 (a) The interstate commission shall adopt rules to effectively and
 28 efficiently achieve the purposes of the compact.

29 (b) Rulemaking shall occur under the criteria set forth in this
 30 article and the bylaws and rules adopted. Rulemaking shall
 31 substantially conform to the principles of the Model State
 32 Administrative Procedures Act, 1981 Act, Uniform Laws
 33 Annotated, Vol. 15, p. 1 (2000), or another administrative
 34 procedures act the interstate commission considers to be consistent
 35 with the due process requirement of the United States Constitution
 36 as interpreted by the United States Supreme Court.

37 (c) All rules and amendments become binding as of the date
 38 specified in each rule or amendment.

39 (d) When adopting a rule, the interstate commission shall:

- 40 (1) publish the entire text of the proposed rule and the reason
- 41 for the proposed rule;
- 42 (2) allow and invite individuals to submit written data, facts,

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1 opinions, and arguments, that shall be publicly available;
 2 (3) provide an opportunity for an informal hearing if
 3 petitioned by ten (10) or more individuals; and
 4 (4) adopt a final rule and its effective date, if appropriate,
 5 based on input from state and local officials or other
 6 interested parties.

7 (e) Not later than sixty (60) days after a rule is adopted, any
 8 interested person may file a petition in the United States District
 9 Court for the District of Columbia or in the Federal District Court
 10 where the interstate commission's principal office is located for
 11 judicial review of the rule. If the court finds that the interstate
 12 commission's action is not supported by substantial evidence in the
 13 rulemaking record, the court shall hold the rule unlawful and set
 14 it aside. For purposes of this subsection, evidence is substantial if
 15 it would be considered substantial evidence under the Model State
 16 Administrative Procedures Act.

17 (f) If a majority of the legislatures of the compacting states
 18 rejects a rule, those states may, by enactment of a statute or
 19 resolution in the same manner used to adopt the compact, cause the
 20 rule to be no longer in effect in any compacting state.

21 (g) The rules governing the operation of the interstate compact
 22 on juveniles superseded by this act are void twelve (12) months
 23 after the first meeting of the interstate commission created by this
 24 compact.

25 (h) Upon determination by the interstate commission that an
 26 emergency exists, it may adopt an emergency rule that becomes
 27 effective immediately upon adoption. However, the rulemaking
 28 procedures provided under this article shall be applied
 29 retroactively to the rule as soon as reasonably possible and not
 30 later than ninety (90) days after the effective date of the rule.

31 Sec. 7.

32 ARTICLE VI

33 OVERSIGHT, ENFORCEMENT, AND DISPUTE 34 RESOLUTION BY THE INTERSTATE COMMISSION

35 Part A. Oversight

36 (a) The interstate commission shall oversee the administration
 37 and operations of the interstate movement of juveniles subject to
 38 this compact in the compacting states and shall monitor activities
 39 being administered in noncompacting states that may significantly
 40 affect compacting states.

41 (b) The courts and executive agencies in each compacting state
 42 shall enforce this compact and shall take all actions necessary and

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appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules adopted shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact that may affect the powers, responsibilities, or actions of the interstate commission, the interstate commission is entitled to receive all service of process in any proceeding and has standing to intervene in the proceeding for all purposes.

Part B. Dispute Resolution

(a) The compacting states shall report to the interstate commission on issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.

(b) Upon the request of a compacting state, the interstate commission shall attempt to resolve any disputes or other issues that are subject to the compact and that may arise between compacting states and noncompacting states. The interstate commission shall adopt a rule providing for mediation and binding dispute resolution for disputes among the compacting states.

Part C. Enforcement

The interstate commission, in the reasonable exercise of its discretion, shall enforce this compact using any or all means set forth in Article X of this compact.

Sec. 8.

ARTICLE VII FINANCE

(a) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The interstate commission shall levy and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff that must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The total annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the compacting state and the volume of interstate movement of juveniles in each compacting

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1 state, and shall adopt a rule binding upon all compacting states
2 that governs the assessment.

3 (c) The interstate commission shall not incur any obligation of
4 any kind before securing the funds adequate to meet the obligation,
5 nor shall the interstate commission pledge the credit of any
6 compacting state except by and with the authority of the
7 compacting state.

8 (d) The interstate commission shall keep accurate accounts of all
9 receipts and disbursements. The receipts and disbursements of the
10 interstate commission shall be subject to the audit and accounting
11 procedures established under its bylaws. However, all receipts and
12 disbursements of funds handled by the interstate commission shall
13 be audited yearly by a certified or licensed public accountant, and
14 the report of the audit shall be included in and become part of the
15 annual report of the interstate commission.

16 Sec. 9.

17 ARTICLE VIII 18 THE STATE COUNCIL

19 Each member state shall create a state council for interstate
20 juvenile supervision. While each state may determine the
21 membership of its own state council, its membership must include
22 at least one (1) representative from the legislative, judicial, and
23 executive branches of government and victims groups and the
24 compact administrator, deputy compact administrator, or
25 designee. Each compacting state retains the right to determine the
26 qualifications of the compact administrator or deputy compact
27 administrator. Each state council shall advise and may exercise
28 oversight and advocacy concerning the state's participation in
29 interstate commission activities and other duties as may be
30 determined by that state, including, but not limited to, the
31 development of policy concerning operations and procedures of the
32 compact within that state.

33 Sec. 10.

34 ARTICLE IX 35 COMPACTING STATES, EFFECTIVE DATE, AND 36 AMENDMENT

37 (a) Any state, the District of Columbia (or its designee), the
38 Commonwealth of Puerto Rico, the United States Virgin Islands,
39 Guam, American Samoa, and the Northern Mariana Islands is
40 eligible to become a compacting state.

41 (b) The compact becomes effective and binding upon legislative
42 enactment of the compact into law by at least thirty-five (35) states.

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1 The initial effective date shall be the later of July 1, 2004, or upon
 2 enactment into law by the thirty-fifth jurisdiction. Thereafter, the
 3 compact becomes effective and binding on any other compacting
 4 state upon enactment of the compact into law by that state. The
 5 governors of nonmember states or their designees will be invited
 6 to participate in interstate commission activities on a nonvoting
 7 basis before adoption of the compact by all states and territories of
 8 the United States.

9 (c) Amendments to the compact may be proposed by the
 10 interstate commission for enactment by the compacting states. No
 11 amendment becomes effective and binding upon the interstate
 12 commission and the compacting states unless and until it is enacted
 13 into law by unanimous consent of the compacting states.

14 Sec. 11.

15 ARTICLE X
 16 WITHDRAWAL, DEFAULT, TERMINATION, AND
 17 JUDICIAL ENFORCEMENT

18 Part A. Withdrawal

19 (a) Once effective, the compact continues in force and remains
 20 binding upon every compacting state. A compacting state may
 21 withdraw from the compact by enacting a statute specifically
 22 repealing the statute that enacted the compact into law.

23 (b) The effective date of withdrawal is the effective date of the
 24 repeal.

25 (c) The withdrawing state shall immediately notify the
 26 chairperson of the interstate commission in writing upon the
 27 introduction of legislation repealing this compact in the
 28 withdrawing state. The interstate commission shall notify the other
 29 compacting states of the withdrawing state's intent to withdraw
 30 within sixty (60) days of its receipt.

31 (d) The withdrawing state is responsible for all assessments,
 32 obligations, and liabilities incurred through the effective date of
 33 withdrawal, including any obligations the performance of that
 34 extends beyond the effective date of withdrawal.

35 (e) Reinstatement following withdrawal of any compacting state
 36 shall occur upon the withdrawing state reenacting the compact or
 37 upon later date as determined by the interstate commission.

38 Part B. Technical Assistance, Fines, Suspension, Termination and
 39 Default

40 (a) If the interstate commission determines that any compacting
 41 state has at any time defaulted in the performance of any of its
 42 obligations or responsibilities under this compact, the bylaws, or

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any adopted rules, the interstate commission may impose any or all of the following penalties:

(1) Remedial training and technical assistance as directed by the interstate commission.

(2) Alternative dispute resolution.

(3) Fines, fees, and costs levied upon the county responsible for the default or upon the state, if the state is responsible for the default, in amounts considered reasonable as fixed by the interstate commission.

(b) Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council.

(c) The grounds for default include, but are not limited to, failure of a compacting state to perform the obligations or responsibilities imposed upon it by this compact, interstate commission bylaws, or adopted rules. The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission on the defaulting state pending a cure of the default. The interstate commission shall stipulate the conditions and the time that the defaulting state must cure its default. If the defaulting state fails to cure the default within the time specified by the interstate commission, in addition to any other penalties imposed in this compact, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states, and all rights, privileges, and benefits conferred by this compact are terminated from the effective date of suspension.

(d) Within sixty (60) days of the effective date of termination of a defaulting state, the interstate commission shall notify the governor, the chief justice or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council of the termination.

(e) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including any obligations that extend beyond the effective date of termination.

(f) The interstate commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the interstate commission and the defaulting state.

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(g) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the interstate commission under the rules.

Part C. Judicial Enforcement

The interstate commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its offices, to enforce compliance with the provisions of the compact and its adopted rules and bylaws against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of the litigation including reasonable attorney's fees.

Part D. Dissolution of Compact

(a) The compact dissolves effective on the date of the withdrawal or default of the compacting state that reduces membership in the compact to one (1) compacting state.

(b) Upon the dissolution of this compact, the compact becomes void and is of no further force or effect, and the business and affairs of the interstate commission shall be concluded and any surplus funds shall be distributed in accordance with the bylaws.

Sec. 12.

ARTICLE XI

SEVERABILITY AND CONSTRUCTION

(a) The provisions of this compact are severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact are enforceable.

(b) The provisions of this compact shall be liberally constructed to effectuate its purposes.

Sec. 13.

ARTICLE XII

BINDING EFFECT OF COMPACT AND OTHER LAWS

Part A. Other Laws

(a) Nothing in the compact prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(b) All compacting states' laws other than state constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

Part B. Binding Effects of the Compact

(a) All lawful actions of the interstate commission, including all rules and bylaws adopted by the interstate commission, are binding

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upon the compacting states.

(b) All agreements between the interstate commission and the compacting states are binding in accordance with their terms.

(c) Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding the meaning or interpretation.

(d) Any provision of this compact that violates the Constitution of the State of Indiana is ineffective in Indiana.

Sec. 14. (a) As used in this section, "council" refers to the state council for interstate juvenile supervision described in Article II, subsection (c) of this compact.

(b) The council consists of the following members:

(1) The commissioner of the department of correction.

(2) The executive director of the Indiana judicial center.

(3) The executive director of the Indiana criminal justice institute.

(4) One (1) member of a victim's group appointed by the governor upon recommendation of the executive director of the Indiana criminal justice institute.

(5) The executive director of the Indiana sheriffs' association.

(6) The executive director of the public defender council of Indiana.

(7) The executive director of the prosecuting attorneys council of Indiana.

(8) One (1) member of the general assembly appointed by the chairman of the legislative council. The legislative member serves at the pleasure of the chairman of the legislative council.

(9) The compact administrator, if the compact administrator is not already a member of the council.

(c) The executive director of the Indiana judicial center shall serve as the chairperson of the council.

(d) The Indiana judicial center shall staff the council.

(e) The council shall meet at the call of the chairperson or upon request by a majority of the members, but at least one (1) time per calendar year.

(f) The commissioner of the department of correction shall appoint sufficient deputy compact administrators to fulfill Indiana's obligations under the Interstate Compact for Juveniles with respect to out of state juveniles who are on parole.

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(g) The executive director of the Indiana judicial center shall appoint sufficient deputy compact administrators to fulfill Indiana's obligations under the interstate compact for juveniles with respect to out-of-state juveniles who are on probation.

(h) The council has the following duties:

(1) The council shall receive the recommendation of the commissioner of the department of correction and the executive director of the Indiana judicial center concerning the appointment of a compact administrator.

(2) The council shall appoint the compact administrator, who shall serve as commissioner on the interstate commission. If the compact administrator is unable to serve as commissioner at a meeting of the interstate commission, the council shall designate another person to serve in place of the compact administrator.

(3) The council shall oversee activities of the interstate commission.

(4) The council may make recommendations concerning the operation of the interstate compact within Indiana and to facilitate the implementation of the rules and bylaws adopted by the interstate commission.

(i) The expenses of the council shall be paid from appropriations made to the Indiana judicial center.

(j) Each member of the council who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(k) Each member of the council who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(l) Each member of the council who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem,

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1 mileage, and travel allowances paid under this subsection shall be
 2 paid from appropriations made to the legislative council or the
 3 legislative services agency.

4 (m) A member of the council who is a member of the general
 5 assembly serves as a nonvoting member.

6 (n) The affirmative votes of a majority of the voting members
 7 appointed to the council are required for the committee to take
 8 action on any measure, including making a recommendation.

9 Sec. 15. The state shall continue to meet its obligations under
 10 IC 31-37-23 (the Interstate Compact on Juveniles) to those states
 11 that:

12 (1) continue to meet their obligations to the state under
 13 IC 31-37-23; and

14 (2) have not approved the Interstate Compact for Juveniles
 15 after this chapter becomes effective.

16 Sec. 16. (a) Except as provided in subsection (b), an Indiana
 17 juvenile on parole who applies to be transferred out of state under
 18 the Interstate Compact for Juveniles shall pay an application fee
 19 of seventy-five dollars (\$75). The application fee shall be used to
 20 cover the costs of administering the Interstate Compact for
 21 Juveniles.

22 (b) A juvenile who has been found indigent by a trial court at
 23 the time the juvenile applies to be transferred out of state under
 24 the interstate compact for juveniles may, at the court's discretion,
 25 be required to pay a lesser amount of the cost of the application fee
 26 under subsection (a).

27 (c) An Indiana juvenile who is on probation shall pay the
 28 application fee to the county probation department.

29 (d) The application fee paid by an Indiana juvenile who is on
 30 probation shall be transferred to the county treasurer. The county
 31 treasurer shall deposit fifty percent (50%) of the money collected
 32 under this subsection into the county supplemental juvenile
 33 probation services fund and shall transmit the remaining fifty
 34 percent (50%) of the money collected under this subsection to the
 35 Indiana judicial center for deposit in the state general fund to be
 36 used to cover the cost of administering the Interstate Compact for
 37 Juveniles.

38 (e) The executive director of the Indiana judicial center shall
 39 submit a proposed budget for expenditure of the money deposited
 40 in the general fund under this section to the budget agency in
 41 accordance with IC 4-12-1.

42 (f) The commissioner of the department of correction shall

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1 **submit a proposed budget for expenditure of the money deposited**
2 **in the state general fund under this section to the budget agency in**
3 **accordance with IC 4-12-1.**

4 SECTION 16. IC 34-30-2-134.5 IS ADDED TO THE INDIANA
5 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2004]: **Sec. 134.5. IC 31-37-23.5-1**
7 **(Concerning the Interstate Compact for Juveniles).**

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